

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 3-26-04.

The requestor withdrew 99080 for DOS 6-12-03.

The IRO reviewed medical necessity of miscellaneous supplies, therapeutic exercises, levels I, II, III, & IV office visits, joint mobilization, myofascial release, group therapy, muscle testing, chiro manipulation manual traction, diathermy, unlisted modality, and massage therapy from 4-22-03 through 9-22-03.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(r)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

The IRO concluded that miscellaneous supplies, therapeutic exercises, levels I, II, III, & IV office visits, joint mobilization, myofascial release, group therapy, muscle testing, chiro manipulation manual traction, diathermy, unlisted modality, and massage therapy from 4-22-03 through 6-25-03 were medically necessary. The IRO concluded that all remaining services in dispute were not medically necessary.

On this basis, the total amount recommended for reimbursement (\$6052.00) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On October 29, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
4-21-03 6-12-03	95851	\$40.00	\$0.00	G	\$36.00	Medicine GR (I)(E)(4)	ROM testing is not global to muscle testing and office visit rendered on this date. ROM testing is global to FCE. Reimbursement of \$36.00 X 2 = \$72.00 is recommended.
4-21-03	97750MT	\$172.00	\$0.00	G	\$43.00/body area	Medicine GR (I)(E)(3)	Muscle testing is not global to ROM testing and office visit rendered on this date. Muscle testing is global to FCE. Claimant sustained a back injury = 1 body area; therefore, reimbursement of \$43.00 is recommended.
4-22-03	99214	\$75.00	\$0.00	N	\$71.00	CPT Code Descriptor Rule 133.307	Report not submitted to support billed service per MFG.
7-2-03	97750MT	\$344.00	\$0.00	G	\$43.00/body area	Medicine GR (I)(E)(3)	Muscle testing is not global to ROM testing and office visit rendered on this date. Muscle testing is global to FCE. Claimant sustained a back injury = 1 body area; therefore, reimbursement of \$43.00 is recommended.
7-2-03 7-30-03	99080-73	\$15.00	\$0.00	N	\$15.00	Rule 129.5(d)	Report not submitted to support billed service or compliance with statute.
8-6-03	95851	\$30.60	\$0.00	G	\$30.50	Rule 134.202	ROM testing is not global to muscle testing and office visit rendered on this date. ROM testing is global to FCE. Reimbursement of \$30.50 is recommended.
TOTAL							The requestor is entitled to reimbursement of \$188.50.

ORDER.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees (\$6052.00 + \$188.50) in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 4-21-03 through 9-22-03 in this dispute.

This Order is hereby issued this 19th day of January 2005.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

June 9, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-2319-01
TWCC #:
Injured Employee:
Requestor:
Respondent:
----- Case #:

----- has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ----- IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ----- for independent review in accordance with this Rule.

----- has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ----- external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ----- chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ----- for independent review. In addition, the ----- chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a male who sustained a work related injury on ----- . The patient reported that while at work he sustained an injury to his back when he was lifting pallets weighing approximately 30 pounds each, continuously throughout his work day. The patient was initially evaluated in the emergency room where he underwent x-rays. The patient presented to his primary care physician on 10/15/02 where he was given pain medications and referred for physical therapy. On 4/21/03 the patient presented to the treating chiropractors clinic where he underwent a physical capacity testing and referred for an MRI. The patient continued treatment consisting of therapeutic exercises, joint mobilization, myofascial release, chiropractic manipulation, manual traction and diathermy. The diagnoses for this patient have included lumbar sprain/strain, grade II, myofascial pain syndrome, and lumbar facet syndrome.

Requested Services

Miscellaneous supplies, therapeutic exercises, levels I, II, III, & IV office visits, joint mobilization, myofascial release, group therapy, muscle testing, chiro manipulation, manual traction, diathermy, unlisted modality, and massage therapy from 4/22/03 through 9/22/03.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Letter 5/6/04
2. SOAP notes 4/21/03 – 10/22/03
3. Therapeutic Procedures Chart 4/23/03 – 9/3/03

Documents Submitted by Respondent:

1. No documents submitted

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is partially overturned.

Rationale/Basis for Decision

The ----- chiropractor reviewer noted that this case concerns a male who sustained a work related injury to his back on -----. The ----- chiropractor reviewer also noted that the diagnoses for this patient have included lumbar sprain/strain, grade II, myofascial pain syndrome, and lumbar facet syndrome. The ----- chiropractor reviewer indicated that the patient had low back and leg pain but that the patient also had an underlying structural defect (short pedicles and small spinal canal, degenerated facets and discs). The ----- chiropractor reviewer explained that the patient's work related injury actually made his condition worse. The ----- chiropractor reviewer indicated that the patient required an 8-week trial of chiropractic care. The ----- chiropractor reviewer explained that if the patient showed steady improvement during the 8-week trial period, then continued care would be medically necessary. However, the ----- chiropractor reviewer noted that the patient failed to show improvement in his condition from 6/25/03 through 9/22/03. The ----- chiropractor reviewer explained that once the patient was referred out for further treatment, chiropractic treatment should have ended due to the patient's failure to respond. The ----- chiropractor reviewer also explained that the patient's pain level remained a 6/10 from 6/25/03 through 9/22/03. The ----- chiropractor reviewer further explained that the patient's muscle strength testing reported on 7/2/03 was worse than what was reported on 6/12/03 and that the patient was not able to return to work after treatment. Therefore, the ----- chiropractor consultant concluded that the miscellaneous supplies, therapeutic exercises, levels I, II, III, & IV office visits, joint mobilization, myofascial release, group therapy, muscle testing, chiro manipulation, manual traction, diathermy, unlisted modality, and massage therapy from 4/22/03 through 6/25/03 was medically necessary to treat this patient's condition. However, the ----- chiropractor consultant also concluded that the miscellaneous supplies, therapeutic exercises, levels I, II, III, & IV office visits, joint mobilization, myofascial release, group therapy, muscle testing, chiro manipulation, manual traction, diathermy, unlisted modality, and massage therapy from 6/27/03 through 9/22/03 were not medically necessary to treat this patient's condition.

Sincerely,

State Appeals Department
